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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Incentives for Distributed Generation and Distributed Energy Resource	))))	Rulemaking 04-03-017

RESPONSE OF MISCO IN SUPPORT OF
FUEL CELL ENERGY INC.'S PETITION FOR MODIFICATION
OF DECISION 04-12-045

Pursuant to Rule 16.4(f) of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure, MISCO submits this Response in support of Fuel Cell Energy Inc.'s ("FCE's") petition for modification of Decision 04-12-045 ("Petition").

We strongly support FCE's request to increase the limit of incentive payments available under the Self-Generation Incentive Program ("SGIP") from the current cap of 1 MW to 3 MW for the following reasons:

- **The SGIP program has proven itself, and the time is right to build on past SGIP successes.**
- **An increase in the incentive cap from 1 to 3 MW is needed in order to cost-effectively develop the Biogas market for fuel cell technology at waste water treatment plants, landfills and other host facilities that need larger scaled projects.**
- **An increase in the SGIP from 1 to 3 MW using natural gas would allow larger users of electrical and thermal energy to implement more efficient technologies which utilize less fuel.**
- **In increase in the SGIP incentive cap using natural gas will open a larger marketplace that is increasingly, on a voluntary basis, choosing to reduce green house gas emissions ahead of AB32 implementation.**
- **The potential benefits to host customers and ratepayers, in our opinion, clearly justify increasing the SGIP incentive cap from 1 to 3 MW for both renewable and natural gas fuel stocks.**

I. Introduction

We currently and in the past have an active interest in achieving the goals and objectives of the SGIP program. We agree that increasing the SGIP incentive cap from 1 to 3 MW would provide new impetus to development of larger distributed generation ("DG") applications, and help encourage further innovation and expansion of DG applications at a time when the state sorely needs reliable distributed energy and the most efficient use other fuel stocks, i.e. natural gas, widely used in the State.

II. We agree with FCE that the SGIP Program effectively encourages small DG technologies, but does not do so for larger DG technologies.

A. There are important differences between small (<1 MW) and larger DG technologies, markets and applications.

The economic value proposition to all stakeholders is enhanced with larger DG systems. There is an increasing market demand for DG between 1 and 3 MW that more closely meet the requirements of end user customers. There is currently a void in the marketplace in California, particularly in areas that are exposed to air quality issues preventing many of the prime movers utilized in the past to be implemented with ever increased ratcheting of air quality standards throughout the State. Voluntary attempts by State, Federal, Industrial and Commercial customers to reduce green house gas emissions ahead of AB32 regulations are currently thwarted as they attempt to utilize waste heat to offset existing combustion technologies (i.e. boilers, chillers). End users are demanding higher efficiency out of any fuel source and many could reduce emissions to a greater extent by installing larger DG units.

B. We agree that the cap on incentives for larger DG installations is inhibiting development of this important market sector.

FCE is correct in stating that larger customers cannot participate in SGIP because the MW cap on incentives deters larger installations as they become uneconomical and too risky to

develop. Development is further hindered when a developer or end user customer attempts to match thermal loads at a customer site to maximize the reductions of green house gases emissions within the spirit and intent of AB32, and particularly acute when using renewable fuel sources from methane gas or waste hydrogen.

C. Since the markets for large and small DG are distinct and often not competing with each other, raising the MW cap is a "win/win" proposition.

Raising the cap to encourage new, larger applications will not negatively affect smaller, since the two groups are reaching different customers. If the Commission is concerned about running out of funding, it can monitor participation, distribute money between large and small, or (best solution) increase the budget to ensure that both large and small DG markets grow.

In conclusion, we strongly recommend an increase in the SGIP MW limit to at least 3 MWs.

Dated: August 30, 2007

Respectfully submitted,

/s/

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PROOF OF SERVICE

I declare that:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is ELLISON, SCHNEIDER & HARRIS; 2015 H Street; Sacramento, California 95814-3109; telephone (916) 447-2166.

On August 30, 2007, I served the attached *Response of MISCO in Support of Fuel Cell Energy Inc.'s Petition for Modification of Decision 04-12-045* by electronic mail or, if no e-mail address was provided, by United States mail at Sacramento, California, addressed to each person shown on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 30, 2007, at Sacramento, California.

/s/

Karen A. Mitchell

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